



City of Seattle  
Edward B. Murray, Mayor

Department of Construction and Inspections  
Nathan Torgelson, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

**Application Number:** 3020625  
**Applicant Name:** Alan Foltz  
**Address of Proposal:** 8920 Sand Point Way NE

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Application to remove existing 293 sq. ft. residential pier and to relocate and replace with a new 472 sq. ft. pier in an environmentally critical area.

The following approval is required:

**Shoreline Substantial Development Permit** - to allow a pier in an Urban Residential/  
Conservancy Recreation (CR) shoreline environments

**SEPA** - Environmental Determination (Section 25.05, Seattle Municipal Code)

**SEPA DETERMINATION:** ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or  
involving another agency with jurisdiction.

**BACKGROUND DATA**

**Site Location and Area Description**

The proposal site is located along Lake Washington. The site is zoned Single Family 9600 (SF9600) with the Urban Residential/ Conservancy Recreation (UR/CR) Shoreline Master Program designations. There is an existing single-family residence located on the lot.

The immediate vicinity is zoned for residential development in an expansive Single Family zone that includes both SF 9600 and SF 5000 designations. The area is developed primarily with single, two and three-story single family residences in a mix of architectural styles and sizes.

The applicant is proposing to remove existing 293 square foot residential pier and to relocate and replace with a new 472 square foot pier. Along with the replacement of the solid decking on the existing portion of the pier with a grated material, the project includes native vegetation planting along the shoreline to mitigate for the impacts of the additional overwater coverage.

#### Public Comment

Notice of the proposed project was published on June 25, 2015. The public comment period ended on July 24, 2015. No comments were received.

### **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT**

Section 23.60A.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. The policies and procedures of Chapter 90.58 RCW;*
- B. The regulations of this Chapter; and*
- C. The provisions of Chapter 173-27 WAC*

*Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and Shoreline Management Act.*

#### **A. The Policies and Procedures of Chapter 90.58 RCW**

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60A. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis demonstrates, the subject proposal is consistent with the procedures outline in RCW 90.58.

**B. The Regulation of Chapter 23.60A**

Chapter 23.60A of the Seattle Municipal Code is known as the “Seattle Shoreline Master Program.” In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SSMP 23.60A.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60A.063). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60A.004, and meets development standards for all shoreline environment established in SMC 23.60A.004 as well as the criteria and development standards for the shoreline environment in which the site is located, any applicable special approval criteria and the development standards for specific uses.

The site is classified as a waterfront lot. The shoreline designations for the site are Urban Residential/Conservancy Residential (UR/CR) (SMC 23.60A.540 and 23.60A.282). Residential piers are a permitted use in these shoreline environments.

*SMC 23.60A.004 - Shoreline Policies*

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan’s Land Use Element and the purpose and location criteria for each shoreline environment designation contained in SMC 23.60A.220 must be considered in making all discretionary decisions in the shoreline district. The purpose of the UR and CR Environments are stated in SMC 23.60A.220.D.11 and D.4 respectively. The applicable sections of these regulations to the current proposal are in the Conservancy Recreation Environment maximum effort to preserve, enhance or restore the existing natural ecological, biological or hydrological conditions shall be made in designing, developing, operating and maintaining recreational facilities and in the Urban Residential Environment residential areas shall be protected in a manner consistent with the Single Family Residential Areas Regulations.

*SMC 23.60A.063. - Procedures for Obtaining Shoreline Substantial Development Permits*

The proposed project is a permitted use in the UR/CR environment (SMC 23.60A.540 and 23.60A.282) and the underlying Single Family Residential 5000 zoning district. As designed, the proposal conforms to the general development standards and the requirements of the underlying residential zone and of the UR/CR overlay zones.

*SMC 23.60A.152 - Development Standards for all Environments*

These general standards apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses must: 1) minimize and control any increases in surface water runoff so that receiving water quality and shore properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety.

The proposed residential use as conditioned is consistent with these general standards for development within the shoreline area, thereby minimizing any adverse impact to the shoreline area, to water quality and will not be a hazard to the public health and safety.

*SMC 23.60A.540 and SMC 23.60A.282 - Development Standards for the UR and CR Environments*

The development standard for the UR and CR environments pertinent to this proposal concerns lot coverage of all structures, including piers. The CR environment development standards also contain requirements for natural area protection.

The lot coverage regulations for the shoreline environment require that structures, including piers, not occupy an area greater than thirty-five (35) percent of a waterfront lot. Under the proposal, total lot coverage would be consistent with this standard.

Natural area protection of the CR environment requires that all developments in this environment be located and designed to minimize adverse impacts to natural areas of biological significance and that development in critical natural areas be minimized. Critical areas include fish spawning areas and migration routes. Design elements of the project have minimized the adverse impacts on the shoreline environment including fish spawning areas and fish migration routes. These design elements included the following:

1. Installing a molded plastic grated surface for the pier in order to allow natural light penetration to the water below and installing steel piles, which decreases the need for more in-water structures compared to wood piling.
2. Planting of native vegetation along shoreline, per plans.

*SMC 23.60A.187 – Standards for piers and floats and overwater structures*

These standards apply to residential development in the shoreline environment. The standards specify the size and location of piers and floats. This project meets the described standards.

**C. The Provisions of Chapter 173-27 WAC**

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). Since DOE has approved the Seattle Shoreline Master Program, consistency with the criteria and procedures of SMC Chapter 23.60A is also consistent with WAC 173-14 and RCW 90.58. As discussed in the foregoing analysis, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

Thus, as conditioned below, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

**Conclusion**

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC, RCW and with the regulations of Chapter 23.60A, Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the Urban Residential and Conservancy Recreation environments. It also conforms to the general development standards, as well as the requirements of the underlying zone, and therefore should be approved. Pursuant to the Director's authority under Seattle's Shoreline Master Program, to ensure that development proposals are consistent with the policies and procedures, and conforms to specific development standards of the underlying zone, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, the proposal is hereby approved.

### **DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT**

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

### **ANALYSIS - SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant (dated May 12, 2015) and annotated by the Land Use Planner. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 25.05.665D1.1) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

#### **Short-term Impacts**

The following temporary or construction related impacts are expected: 1) water impacts (disturbance of migrating fish by sedimentation and clouding due to pile driving); 2) noise impacts (also due to pile driving). These impacts are not considered significant because they are temporary. Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

Construction impacts to the lake environment will be mitigated by construction company procedures and the Washington Department of Fish and Wildlife's restriction on construction times. Specifically, all construction work will occur from a floating barge, there will be no equipment on the shoreline, and the barge will not be grounded.

Compliance with these applicable policies and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts.

#### **Long-term Impacts**

##### **Plants and Animals**

Chinook salmon and Bull Trout, are species listed as threatened under the Endangered Species Act (ESA) in March 1999, are known to inhabit Lake Washington including the proposed project area. Under the City of Seattle's Environmental Policies and Procedures 25.05.675 N (2) it states in

*part: A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals.*

This project is proposed to take place in Lake Washington, which is rearing habitat and is part of the migration corridor of Chinook salmon from the Cedar River and the other water bodies in Water Resource Inventory Area 8.

Clearly identified long-term impacts on juvenile Chinook salmon and the aquatic environment include the continued existence of a bulkhead, an increase in over-water coverage and the presence of piles in the habitat of a threatened species. Over-water coverage and piles impact the quality of natural habitat of juvenile Chinook salmon by creating shading and providing structure for predators such as small mouth bass.

As provided by SMC 25.05.350 A, when making a threshold determination the lead agency may consider mitigation measures that the agency or applicant will implement. Proposed mitigation measures may allow the lead agency to issue a Determination of Non-Significance (DNS). These mitigation measures can be in the form of clarification of the proposal, changes to the proposal, or the project may be conditioned to include the mitigation measures. The applicant has included mitigation measures in the project to offset the impacts of the proposed work and Seattle DCI has imposed conditions on this project. These mitigation measures and conditions are listed below.

1. Installing a molded plastic grated surface for the pier in order to allow natural light penetration to the water below and installing steel piles, which decreases the need for more in-water structures compared to wood piling.
2. Planting native vegetation along shoreline, per plans (See Sheets W1-W4).

These mitigation measures and conditions are believed to minimize impacts on juvenile salmon habitat at the site and improve the aquatic habitat for juvenile Chinook salmon and other species. Terrestrial vegetation adds detritus material to the aquatic environment, which benefits salmon and other aquatic organisms utilizing the nearshore environment. Terrestrial vegetation also directly benefits salmon by providing a food source in the form of terrestrial insects that drop into the water.

### Summary

In conclusion, several effects on the environment may result from the proposed development, however by following the proposed mitigation measures; these effects will not be significant. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

### **DECISION SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance with conditions. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2)(C).

## **SEPA AND SHORELINE CONDITIONS**

### **Prior to Issuance of the Building Permit**

- 1) Building permit plans should clearly area adjacent to the shoreline to be enhanced with native vegetation planting consistent with mitigation shown on Sheets W1-W4.

### **During Construction:**

- 2) Work waterward of ordinary high water shall be restricted to work windows established by Washington Department of Fish and Wildlife and US Army Corps of Engineers.
- 3) Appropriate best management practices (BMPs) shall be employed to prevent deleterious material from entering Lake Washington. BMPs shall include the deployment of a turbidity curtain and debris boom surrounding the project area during in-water and over-water work to contain any debris, suspended sediments, or spills caused by construction activities. Materials to be disposed of shall be contained on site and then be discarded at an appropriate upland facility.
- 4) The use of vibratory hammer for pile installation shall occur to the extent feasible for site conditions.
- 5) The appropriate Best Management Practices (BMPs) shall be employed to prevent erosion and sediment from entering Lake Washington. Any debris that enters the water during construction shall be collected and disposed of in an appropriate upland facility.

### **For the Life of the Project**

- 6) The native vegetation adjacent to the shoreline for habitat mitigation for this project shall be maintained. Dead plants shall be replaced with the same or similar native species. No chemical pesticides, herbicides or fertilizers shall be used in this mitigation area and within 50 feet of Ordinary High Water.

Ben Perkowski, Land Use Planner  
Seattle Department of Construction and Inspections

Date: July 5, 2016

BSP:rgc  
3020625.docx

## **IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT**

### **Master Use Permit Expiration and Issuance**

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered “approved for issuance”. (If your decision is appealed, your permit will be considered “approved for issuance” on the fourth day following the City Hearing Examiner’s decision.) Projects requiring a Council land use action shall be considered “approved for issuance” following the Council’s decision.

The “approved for issuance” date marks the beginning of the **three year life** of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by Seattle DCI within that three years or it will expire and be cancelled (SMC 23-76-028). (Projects with a shoreline component have a **two year life**. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at [prc@seattle.gov](mailto:prc@seattle.gov) or to our message line at 206-684-8467.